"बिजनेस पोस्ट के अन्तर्गत डाक शुल्क के नगद भुगतान (बिना डाक टिकट) के प्रेषण हेतु अनुमत. क्रमांक जी. 2-22-छत्तीसगढ़ गजट/38 सि. से. भिलाई, दिनांक 30-5-2001."

पंजीयन क्रमांक "छत्तीसगढ़/दुर्ग/09/2010-2012."

छत्तीसगढ़ राजपत्र

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 16] रायपुर, शुक्रवार, दिनांक 3 फरवरी 2012—माघ 14, शक 1933

विधि और विधायी कार्य विभाग

मंत्रालय, दाऊ कल्याण सिंह भवन, रायपुर

रायपुर, दिनांक 3 फरवरी 2012

क्र. 853/डी. 202/21-अ/प्रा./छ.ग./11—भारत सरकार, विधि और न्याय मंत्रालय के पत्र क्रमांक 2(7)/11-Leg.I, नई दिल्ली, दिनांक 27-10-2011 के अनुसरण में दि केबल टेलिविजन नेट वर्क्स (रेग्यूलेशन) अमेंडमेंट आर्डिनेंस, 2011 (क्रमांक 3 सन् 2011) को एतद्द्वारा सर्वसाधारण की जानकारी हेतु पुनःप्रकाशित की जाती है.

छत्तीसगढ़ के राज्यपाल के नाम से तथा आदेशानुसार,
डी. पी. पाराशर, उप-सचिव.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 25th October, 2011/Kartika 3, 1933 (Saka)

THE CABLE TELEVISION NETWORKS (REGULATION) AMENDMENT ORDINANCE, 2011

No. 3 of 2011

Promulgated by the President in the Sixty-second Year of the Republic of India.

An Ordinance further to amend the Cable Television Networks (Regulation) Act, 1995.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for her to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

Short title and commencement.

1. *(1)* This Ordinance may be called the Cable Television Networks (Regulation) Amendment Ordinance, 2011.

(2) It shall come into force at once.

Amendment of section 2.

2. In section 2 of the Cable Television Networks (Regulation) Act, 1995 (hereinafter referred to as the principal Act),— 7 of 1995.

(A) for clause (aa), the following clauses shall be substituted, namely:—

'(ai) "Authority" means the Telecom Regulatory Authority of India established under sub-section (1) of section 3 of the Telecom Regulatory Authority of India Act, 1997; 24 of 1997.

(aii) "Broadcaster" means a person or a group of persons, or body corporate, or any organisation or body providing programming services and includes his or its authorised distribution agencies;

(aiii) "cable operator" means any person who provides cable service through a cable television network or otherwise controls or is responsible for the management and operation of a cable television network and fulfils the prescribed eligibility criteria and conditions;';

(B) in clause (e), for sub-clause (iii), the following sub-clause shall be substituted, namely:—

"(iii) a company as defined in section 3 of the Companies Act, 1956;"; 1 of 1956.

(C) after clause (e), the following clause shall be inserted, namely:—

'(ei) "post" means a post and includes a pole, tower, standard, stay, strut, cabinet, pillar or any above ground contrivance for carrying, suspending or supporting any network infrastructure facility;';

(D) in clause (g), in sub-clause (i), the words "through video cassette recorders or video cassette players" shall be omitted;

(E) after clause (g), the following clause shall be inserted, namely:—

'(gi) "public authority" means any authority, body or institution of local self- government constituted or established by or under—

(i) the Constitution of India;

(ii) any law made by Parliament;

(iii) any law made by a State Legislature;

(iv)any notification issued or order made by the appropriate Government;

and includes any—

(v) body owned, controlled or substantially financed; or

(vi) non-governmental organisation substantially financed; or directly or indirectly by funds provided by the appropriate Government;';

(F) in clause (h), after the words "under this Act", the following shall be inserted, namely:—

"within such local limits of jurisdiction as may be determined by that Government;";

(G) in clause (i),—

(a) for the words "a person", the words "any individual, or association of individuals, or a company, or any other organisation or body" shall be substituted;

(b) for the words "indicated by him", the words "indicated by him or it" shall be substituted.

Amendment of section 3.

3. In section 3 of the principal Act, the proviso shall be omitted.

Substitution of new section for section 4.

4. For section 4 of the principal Act, the following section shall be substituted, namely:—

Registration as cable operator.

"4. *(1)* Any person who is desirous of operating or is operating a cable television network may apply for registration or renewal of registration, as a cable operator to the registering authority.

(2) The cable operator shall fulfill such eligibility criteria and conditions as may be prescribed and different eligibility criteria may be prescribed for different categories of cable operators.

(3) On and from the date of issue of notification under section 4A, no new registration in a State, city, town or area notified under that section shall be granted to any cable operator who does not undertake to transmit or retransmit channels in an encrypted form through a digital addressable system.

(4) An application under sub-section (1) shall be made in such form and be accompanied with such documents and fees as may be prescribed.

(5) On receipt of the application, the registering authority shall satisfy itself that the applicant has furnished all the required information prescribed under sub-section (4) and on being so satisfied, register the applicant as a cable operator and grant him a certificate of registration or renew its registration, as the case may be, subject to such terms and conditions as may be prescribed under sub-section (6):

Provided that the registering authority may, if it is satisfied that the applicant does not fulfill the eligibility criteria and conditions prescribed under sub-section (2) or the application is not accompanied with necessary documents or fees prescribed under sub-section (4), and for reasons to be recorded in writing, by order, refuse to grant its registration or renewal and communicate the same to the applicant:

Provided further that the applicant may prefer an appeal against the order of the registering authority refusing grant or renewal of registration to the Central Government.

(*6*) Without prejudice to the compliance of eligibility criteria for registration of cable operators, the Central Government may prescribe, having regard to the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, foreign relation or contempt of court, defamation or incitement to an offence, such terms and conditions of registration including additional criteria or conditions to be fulfilled by the cable operator.

(*7*) The Central Government may suspend or revoke the registration granted under sub section (5) if the cable operator violates one or more of the terms and conditions of such registration:

Provided that no such order of suspension or revocation shall be made without giving a reasonable opportunity of being heard to the cable operator.".

Substitution of new sections for section 4A.

5. For section 4A of the principal Act, the following sections shall be substituted, namely:—

Transmission of programmes through digital addressable systems, etc.

'4A. (*1*) Where the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, make it obligatory for every cable operator to transmit or re-transmit programmes of any channel in an encrypted form through a digital addressable system with effect from such date as may be specified in the notification and different dates may be specified for different States, cities, towns or areas, as the case may be:

Provided that the date specified in the notification shall not be earlier than six months from the date of issue of such notification to enable the cable operators in different States, cities, towns or areas to install the equipment required for the purposes of this sub-section.

(*2*) The Central Government may prescribe appropriate measures and take such steps as it may consider necessary for implementation of the notification issued under sub-section (1).

(*3*) If the Central Government is satisfied that it is necessary in the public interest so to do, and if not otherwise specified by the Authority, it may direct the Authority to specify, by notification in the Official Gazette, one or more free-to-air channels to be included in the package of channels forming basic service tier and any or more such channels may be specified, in the notification, *genre-wise* for providing a programme mix of entertainment, information, education and such other programmes and fix the tariff for basic service tier, which shall be offered by the cable operators to the consumers and the consumer shall have the option to subscribe to any such tier:

Provided that the cable operator shall also offer the channels in the basic

service tier on a *la carte* basis to the subscriber at a tariff specified under this sub-section.

(4) The Central Government or the Authority may specify in the notification referred to in sub-section *(3)* , the number of free-to-air channels to be included in the package of channels forming basic service tier for the purposes of that sub-section and different numbers may be specified for different States, cities, towns or areas, as the case may be.

(5) It shall be obligatory for every cable operator to publicise the prescribed information including but not limited to subscription rates, standards of quality of service and mechanism for redressal of subscribers' grievances in such manner and at such periodic intervals as may be specified by the Central Government or the Authority for the benefit of the subscriber.

(6) The cable operator shall not require any subscriber to have a receiver set of a particular type to receive signals of cable television network:

Provided that the subscriber shall use a digital addressable system to be attached to his receiver set for receiving programmes transmitted on any channel.

(7) Every cable operator shall provide such information relating to its cable services and networks in such format and at such periodic intervals to the Central Government or the State Governments or the Authority or their authorised representatives, as may be specified by them from time to time.

(8) All actions taken by the Central Government or the Authority in pursuance of the provisions of this section as they stood immediately before the commencement of the Cable Television Networks (Regulation) Amendment Ordinance, 2011 shall continue to remain in force till such actions are modified as per the provisions of this Act.

Explanation.— For the purposes of this section,—

(a) "addressable system " means an electronic device (which includes hardware and its associated software) or more than one electronic devices put in an integrated system through which signals of cable television network can be sent in encrypted form, which can be decoded by the device or devices, having an activated Conditional Access System at the premises of the subscriber within the limits of authorisation made, through the Conditional Access System and the subscriber management system, on the explicit choice and request of such subscriber, by the cable operator to the subscriber;

(b) "basic service tier" means a package of free-to-air channels to be offered by a cable operator to a subscriber with an option to subscribe, for a single price to subscribers of the area in which his cable television network is providing service;

(c) "encrypted", in respect of a signal of cable television network, means the changing of such signal in a systematic way so that the signal would be unintelligible without use of an addressable system and the expression "unencrypted" shall be construed accordingly;

(d) "free-to-air channel", in respect of a cable television network, means a channel, for which no subscription fee is to be paid by the cable operator to the broadcaster for its retransmission on cable;

(e) "pay channel", in respect of a cable television network, means a channel for which subscription fees is to be paid to the broadcaster by the cable operator and due authorisation needs to be taken from the broadcaster for its retransmission on cable;

(f) "subscriber management system" means a system or device which stores the subscriber records and details with respect to name, address and other information regarding the hardware being utilised by the subscriber, channels or bouquets of channels subscribed to by the subscriber, price of such channels or bouquets of channels as defined in the system, the activation or deactivation dates and time for any channel or bouquets of channels, a log of all actions performed on a subscriber's record, invoices raised on each subscriber and the amounts paid or discount allowed to the subscriber for each billing period.

Right of way for cable operators and permission by public authority.

4B. *(1)* Subject to the provisions of this Act, any cable operator entitled for providing cable services may, from time to time, lay and establish cables and erect posts under, over, along, across, in or upon any immovable property vested in or under the control or management of a public authority.

(2) Any public authority under whose control or management any immovable property is vested may, on receipt of a request from a cable operator permit the cable operator to do all or any of the following acts, namely:—

(a) to place and maintain underground cables or posts; and

(b) to enter on the property, from time to time, in order to place, examine, repair, alter or remove such cables or posts.

(3) The facility of right of way under this section for laying underground cables, and erecting posts, shall be available to all cable operators subject to the obligation of reinstatement or restoration of the property or payment of reinstatement or restoration charges in respect thereof at the option of the public authority.

(4) When a public authority in public interest considers it necessary and expedient that the underground cable or post placed by any cable operator under the provisions of this section should be removed or shifted or its position altered, it may require the cable operator to remove it or shift it or alter its position, as the case may be, at its own cost in the time frame indicated by the public authority.

(5) The Central Government may lay down appropriate guidelines to enable the State Governments to put in place an appropriate mechanism for speedy clearance of requests from cable operators for laying cables or erecting posts on any property vested in, or under the control or management of, any public authority and for settlement of disputes, including refusal of permission by the public authority.

(6) Any permission granted by a public authority under this section may be given subject to such reasonable conditions as that public authority thinks fit to impose as to the payment of any expenses, or time or mode of

execution of any work, or as to any other matter connected with or related to any work undertaken by the cable operator in exercise of those rights.

(7) Nothing in this section shall confer any right upon any cable operator other than that of user for the purpose only of laying underground cable or erecting posts or maintaining them.'.

Substitution of new section for section 8.

6. For section 8 of the principal Act, the following section shall be substituted, namely:—

Compulsory transmission of certain channels.

"8. *(1)* The Central Government may, by notification in the Official Gazette, specify the names of Doordarshan channels or the channels operated by or on behalf of Parliament, to be mandatorily carried by the cable operators in their cable service and the manner of reception and retransmission of such channels:

Provided that in areas where digital addressable system has not been introduced in accordance with the provisions of sub-section (1) of section 4A, the notification as regards the prime band is concerned shall be limited to the carriage of two Doordarshan terrestrial channels and one regional language channel of the State in which the network of the cable operator is located.

(2) The channels referred to in sub-section (1) shall be retransmitted without any deletion or alteration of any programme transmitted on such channels.

(3) Notwithstanding the provisions of sub-section (1), any notification issued by the Central Government or the Prasar Bharti (Broadcasting Corporation of India) in pursuance of the provisions of sub section (1), prior to the commencement of the Cable Television Networks (Regulation) Amendment Ordinance, 2011 shall continue to remain in force till such notifications are rescinded or amended, as the case may be.".

Amendment of section 9.

7. In section 9 of the principal Act,—

(a) for the word "equipment", at both the places where it occurs, the words "equipment or digital addressable system" shall be substituted;

(b) the proviso shall be omitted.

Amendment of section 10.

8. In section 10 of the principal Act, after the words "authorised telecommunication systems", the words "and is in conformity with such standards relating to interference as may be prescribed by the Central Government" shall be inserted.

Insertion of new section 10 A.

9. After section 10 of the principal Act, the following section shall be inserted, namely:—

Inspection of cable network and services.

13 of 1885.

"10A. *(1)* Without prejudice to the provisions contained in the Indian Telegraph Act, 1885 or any other law for the time being in force, the Central Government or its officers authorised by it or authorised agency shall have the right to inspect the cable network and services.

(2) No prior permission or intimation shall be required to exercise the right of the Central Government or its authorised representatives to carry out

such inspection.

(3) The inspection shall ordinarily be carried out after giving reasonable notice except in circumstances where giving of such a notice shall defeat the purpose of the inspection.

(4) On being so directed by the Central Government or its authorised officers or agency so authorised by it, the cable operator shall provide the necessary equipment, services and facilities at designated place or places for lawful interception or continuous monitoring of the cable service at its own cost by or under the supervision of the Central Government or its officers or agency so authorised by it.".

Substitution of new section for section 11.

10. For section 11 of the principal Act, the following section shall be substituted, namely:—

Power to seize equipment used for operating cable television network.

"11. If any authorised officer has reason to believe that the provisions of section 3, section 4A, section 5, section 6, section 8, section 9 or section 10 have been or are being contravened by any cable operator, he may seize the equipment being used by such cable operator for operating the cable television network:

Provided that the seizure of equipment in case of contravention of sections 5 and 6 shall be limited to the programming service provided on the channel generated at the level of the cable operator.".

Amendment of section 21.

11. In section 21 of the principal Act, for the words and figures "and the Consumer Protection Act, 1986, " the following shall be substituted, namely:— 68 of 1986.

"the Consumer Protection Act, 1986 and the Telecom Regulatory Authority of India Act, 1997". 68 of 1986. 24 of 1997.

Amendment of section 22.

12. In section 22 of the principal Act, in sub-section (2),—

(i) for clause (a), the following clause shall be substituted, namely:—

"(a) the eligibility criteria for different categories of cable operators under sub-section (2) of section 4;";

(ii) for clause (aa), the following clause shall be substituted, namely:—

"(aa) the form of application, documents to be accompanied and the fees payable under sub-section (4) of section 4;";

(iii) for clause (aaa), the following clause shall be substituted, namely:—

"(aaa) the terms and conditions of registration under sub-section (6) of section 4;";

(iv) after clause (aaa), the following clause shall be inserted, namely:—

"(aaaa) appropriate measures under sub-section (2) of section 4A for implementation of the notification under sub-section (1) of that section;";

(v) after clause (d), the following clause shall be inserted, namely:—

"(da) the specifications of interference standards for interfering with any telecommunication system under section 10;".

PRATIBHA DEVISINGH PATIL,
President.

V.K. BHASIN,
Secy. to the Govt. of India.

संचालक, मुद्रण तथा लेखन सामग्री, छत्तीसगढ़ द्वारा शासकीय क्षेत्रीय मुद्रणालय, राजनांदगांव से मुद्रित तथा प्रकाशित—2012.